Response
SN 09/458,896
Page 8

REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed March 14, 2003. In the Action, the Examiner notes that claims 1-17 are pending, of which claims 1-11, 13, 14, 16 and 17 stand rejected, and claims 12 and 15 are objected to.

In view of the following discussion, the applicants submit that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103. Thus, the applicants believe that all of these claims are now in allowable form.

IN THE SPECIFCATION

The applicant has amended the specification to provide minor grammatical corrections and update patent application references incorporated by reference therein to their current patent numbers. Such grammatical corrections and updating of the patent references incorporated by reference do not add any new subject matter to the application.

ALLOWABLE SUBJECT MATTER

The Examiner has objected to claims 12 and 15 as being dependent upon a rejected base claim. The Examiner concludes that these claims would be allowable subject matter if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The applicants thank the Examiner for indicating allowable subject matter with respect to these claims. However, in view of the arguments set forth herein, the applicants believe that base 10 (and all intervening claims) is in allowable form and, as such, the dependant claims 12 and 15, as they stand, are therefore in allowable condition. Furthermore, the applicant respectfully requests that the foregoing objections to claims 12 and 15 be withdrawn.

Response
SN 09/458,896
Page 9

REJECTIONS

1. <u>35 U.S.C. §102</u>

    <u>Claims 1-4, 7-11, 14 and 16</u>

    The Examiner has rejected claims 1-4, 7-11, 14 and 16 under 35 U.S.C. §102(b) as being anticipated by Norizuki et al. (U.S. Patent No. 5,570,361, issued October 29, 1996, hereinafter "Norizuki"). The applicants respectfully traverse the rejection.

    "Anticipation requires the presence in a single prior art reference disclosure of <u>each and every element of the claimed invention</u>, arranged as in the claim" (<u>Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.</u>, 730 F.2d 1452, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984)(citing <u>Connell v. Sears, Roebuck & Co.</u>, 722 F.2d 1542, 220 U.S.P.Q. 193 (Fed. Cir. 1983)) (emphasis added). The Norizuki reference fails to disclose <u>each and every element</u> of the claimed invention, <u>as arranged</u> in the claim.

    In particular, the Norizuki reference discloses an apparatus and method for ATM traffic supervisory control wherein an idle cell or an administrative cell is used for the traffic control. Specifically, idle cells are inserted into time positions, where user information cells do not exist on a transmission line. A cell-transmitting unit receives a user information cell sent from an AAL (ATM Adaptation Layer) unit 163 and sends the cell to the transmitting switch 177. When a user-information cell sent from the AAL unit does not use all of the total bandwidth of the cell-transmitting unit, the idle cell producing unit produces and sends an idle cell according to the transfer timing provided by the idle cell transferring unit. (See Norizuki, col. 1, lines 12-17, col.8, lines 28-40, and FIGS. 6 and 11). However, nowhere in the Norizuki reference is there any teaching or suggestion of "a transport processor, <u>for replacing at least some of said NULL packets with asset packets comprising said navigational information associated with said content packets</u> to produce a transport stream including content packets comprising said navigation information and asset packets."

    By contrast, the applicants' invention associates asset packets, which comprise navigational information, with the content packets. NULL packets that are inserted with the content packets are replaced with the asset packet to form a composite transport stream. This transport stream includes the content packets, as well as the asset packets containing the navigational information.

Response
SN 09/458,896
Page 10

The Examiner contends that the Norizuki reference discloses replacing of the at least some of the NULL packets with asset packets comprising said navigational information associated with said content packets. The applicants respectfully disagree. Specifically, the Norizuki reference merely discloses "in a case of informing partial or total network of, e.g., the condition of a transmission line or traffic information, except TPC, the control unit 333 provides map parameters of needed information to the ATM switch unit 331. The ATM switch unit 331 maps out the parameters of traffic information in an information field 303A of an idle cell and then sends out the idle cell. In contrast to this, in the case that ATM switch 332 receives the idle cell 303 described above, the ATM switch unit temporarily stores the information field 303A of the idle cell and the provides the information field 303A of the idle cell to the control unit 334." (See Norizuki, col.15, lines 15-45).

Nowhere in the Norizuki reference is there any teaching or suggestion of replacing the NULL packets with the packets comprising the navigational information associated with the content packet. Rather, the Norizuki reference merely discloses mapped-out parameters of traffic information inserted in an information field of an idle cell and then towards the idle cell. Mapping out the parameters of traffic information in the information field of the idle cell and then forwarding the idle cell, is not the same as replacing the NULL packets with asset packets that are associated with the content packets.

Furthermore, even if one skilled in the art could somehow associate providing mapped-out parameters of information to an ATM switch and then forwarding an idle cell, with replacing at least some of the NULL packets with asset packets, nowhere is there any teaching or even suggestion that the navigational information is associated with the content packets. In other words, the asset packets that replace the NULL packets include navigational information that is associated with the content packets. Nowhere in the Norizuki reference is there any teaching or suggestion that the information be provided in an idle cell has any relationship or association with the user-information cells. Therefore, the applicants submit that the Norizuki reference fails to teach each and ever element of the claimed invention as arranged in the claim.

As such, the applicants submit that independent claim 1 is not anticipated and fully satisfies the requirements under 35 U.S.C. §102 and is patentable thereunder. Furthermore, independent claim 10 cites similar features as recited in independent claim 1. As such and at least for the same reasons as discussed above, the applicant submits that independent claim 10 is not anticipated and fully satisfies requirements

Response
SN 09/458,896
Page 11

under 35 U.S.C.§102 and is patentable thereunder. Moreover, claims 2-4, 7-9, 11, 14
and 16, respectfully depend from either independent claims 1 and 10 and recite
additional features thereof. As such, and at least for the same reasons as discussed
above, the applicants submit that these dependant claims are also not anticipated and
fully satisfy the requirements under 35 U.S.C. §102 and are patentable thereunder.
Therefore, the applicant respectfully requests that the rejections be withdrawn.

2.   35 U.S.C. §103
   A.   Claims 5 and 17
   The Examiner has rejected claims 5 and 17 under 35 U.S.C. §103 as being
obvious and unpatentable over Norizuki in view of LaJoie et al. (U.S. Patent No.
5,850,218, issued December 15, 1998, hereinafter "LaJoie"). The applicants
respectfully traverse the rejection.
   Claims 5 and 17 respectively depend from independent claims 1 and 10 and
recite in part:

> "replacing at least some of said NULL packets with asset packets
> comprising said navigational information associated with said content
> packets to produce a transport stream including content packets and
> asset packets comprising said navigational information." (emphasis
> added).

   The test under 35 U.S.C. §103 is not whether an improvement or a use set forth
in a patent would have been obvious or non-obvious; rather, the test is whether the
claimed invention, considered as a whole, would have been obvious. Jones v. Hardy,
110 U.S.P.Q. 1021, 1024 (Fed. Cir. 1984) (emphasis added). Moreover, the invention
as a whole is not restricted to the specific subject matter claimed, but also embraces its
properties and the problem it solves. In re Wright, 6 U.S.P.Q. 2d 1959, 1961 (Fed. Cir.
1988) (emphasis added). The combination of Norizuki and LaJoie fails to teach or
suggest the applicants' invention as a whole.
   As discussed above, the Norizuki reference merely discloses an apparatus and
method for ATM traffic supervisory control wherein an idle cell or an administrative cell
is used for the traffic control. Specifically, idle cells are inserted into time positions
wherein user information cells do not exist on a transmission line. A cell-transmitting

Response
SN 09/458,896
Page 12

unit receives a user information cell sent from an AAL unit 163 and sends the cell to the transmitting switch 177. When a user-information cell sent from the AAL unit does not use all of the total bandwidth of the cell-transmitting unit, the idle cell producing unit produces and sends an idle cell according to the transfer timing provided by the idle cell transferring unit. (See Norizuki, col. 1, lines 12-17, col.8, lines 28-40, and FIGS. 6 and 11). However, nowhere in the Norizuki reference is there any teaching or suggestion of "a transport processor, for replacing at lease some of said NULL packets with asset packets comprising said navigational information associated with said content packets to produce a transport stream including content packets comprising said navigation information and asset packets." Therefore, the Norizuki reference fails to teach or suggest the applicants' invention as a whole.

Furthermore, LaJoie reference fails to bridge the substantial gap as between the Norizuki reference and the applicants' invention. Specifically, the LaJoie reference discloses an interactive table gateway that processes the service signals so that they may be transmitted over a cable systems communications network. (See LaJoie, col. 12, lines 11-13). However, nowhere in the LaJoie reference is there any teaching or suggestion of "a transport processor, for replacing at least some of said NULL packets with asset packets comprising said navigational information associated with said content packets to produce a transport stream including content packets comprising said navigational information and asset packets."

Even if the two references could somehow be properly combined (and the applicants submit that they cannot be properly combined) the combination would merely provide an interactive cable gateway for processing multiplex signals so that they may be transmitted over a cable systems communication network to multiple set-top terminals, wherein mapping traffic information in an information field of an idle cell is transferred to other communication nodes. Therefore, since the combination of Norizuki and LaJoie fail to teach or suggest "a transport processor, for replacing at least some of said NULL packets with asset packets comprising said navigational information associated with said content packets to produce a transport stream including content packets comprising said navigational information and asset packets," the combined references fail to teach or suggest the applicants' invention as a whole.

Response
SN 09/458,896
Page 13

Moreover, the combination and LaJoie fail to embrace the problem that the applicants' invention solves. In particular, the applicants' invention solves the problem of embedding navigational assets of an electronic program guide within the content (e.g., multimedia content), in order to overcome problems associated with changes to the assets. For example, if a bit-map asset must be changed to provide new graphic data, the content files for all navigational screens using that bit-map need to be re-multiplexed, re-distributed, and reloaded onto all servers. Additionally, the re-multiplexing of the navigation assets in content results in a duplication of navigational assets within each of a plurality of content streams including the date. (See, applicants' specification, page 2, lines 17-24).

By contrast, the combination of Norizuki and LaJoie address a problem for solving traffic congestion between the ATM nodes. (See, Norizuki, Abstract and col. 2, lines 26-54). The combined references fail to embrace the properties that the applicants' invention solves. Therefore, the combination of Norizuki and LaJoie fail to teach or suggest the applicants' invention <u>as a whole</u>.

As such, the applicant submits that claim 5 is not obvious and fully satisfies the requirements under 35 U.S.C.§103 and is patentable thereunder. Furthermore, claim 17 depends from independent claim 10 and recites similar features thereof. As such, and for at least the same reasons as discussed above, the applicants submit that claim 17 is also not obvious and fully satisfied the requirements under 35 U.S.C.§103 and is patentable thereunder. Therefore, the applicants respectfully request that the rejections be withdrawn.

B.   <u>Claims 6 and 13</u>

Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norizuki. Applicants respectfully traverse the rejection.

Claims 6 and 13 respectively depend from independent claims 1 and 10 and recite additional features thereof. In particular, claim 6 recites in part:

> "replacing at least some of said NULL packets <u>with asset packets comprising said navigational information associated with said content packets</u> to produce a transport stream including content packets and

Response
SN 09/458,896
Page 14

> asset packets <u>comprising said navigational information</u>." (emphasis added).

As discussed above, the combination of Nurizuki and LaJoie fail to teach or suggest the applicants' invention <u>as a whole</u>. That is, the combined references fail to teach or suggest:

> "a transport processor, for replacing at least some of said NULL packets with asset packets comprising said <u>navigational information associated with said content packets</u> to produce a transport stream including content packets comprising said navigational information and asset packets." (emphasis added).

Rather, the combined references merely disclose an ATM traffic management system that uses idle cells for transferring traffic information to manage a network where traffic information is mapped in an information field of an idle cell and the idle cell is transferred to other communication nodes. The nodes receiving the idle cells then assemble a new idle cell including the traffic information of the received idle cell. (See, Norizuki, Abstract). The combination of Nurizuki and LaJoie merely disclose inserting idle cells having traffic information therein, replacing the traffic information therein, and then transferring the idle cells to other communication nodes. Therefore, since the combined references fail to teach or suggest "a transport processor, for replacing at least some of said NULL packets with asset packets comprising said navigational information associated with said content packets to produce a transport stream including content packets comprising said navigational information and asset packets," the combination of Nurizuki and LaJoie fail to teach the applicants' invention <u>as a whole</u>.

As such, the applicants submit that dependant claim 6 is not obvious and fully satisfies the requirements of the 35 U.S.C.§103 as patentable thereunder. Furthermore, claim 13 recites similar limitations as recited as in dependant claim 6. As such, and for at least the same reasons as discussed above, the applicants submit that dependant claim 13 is not obvious and fully satisfies requirements under 35 U.C.S.§103 as patentable thereunder. Therefore, the applicants respectfully request that the rejections be withdrawn.

Response
SN 09/458,896
Page 15

CONCLUSION

Thus, the applicants submit that claims 1-17 are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Steven M. Hertzberg, Esq. or Eamon J. Wall, Esq. at (732) 530-9404 so appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Eamon J. Wall, Attorney
Reg. No. 39,414
(732) 530-9404

Moser, Patterson & Sheridan, LLP
Attorneys at Law
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702